

IN RE: AMENDMENTS TO THE IDAHO)	
BAR COMMISSION RULES (I.B.C.R.) and)	ORDER AMENDING RULES
IDAHO RULES OF PROFESSIONAL)	
CONDUCT (I.R.P.C.))	
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The resolutions of the Idaho State Bar proposing amendments to the Idaho Bar Commission Rules (I.B.C.R.) and Idaho Rules of Professional Conduct (I.R.P.C.) having been presented to the Court, and the Court having reviewed and approved the recommendations;

NOW, THEREFORE, IT IS HEREBY ORDERED, that the Idaho Bar Commission Rules (I.B.C.R.) and Idaho Rules of Professional Conduct (I.R.P.C.), as they appear in the Idaho State Bar Desk Book be, and they are hereby, amended as follows:

Idaho Bar Commission Rules

RULE 204A. Reciprocal Applicants

- (a) **Qualifications.** A reciprocal applicant, in order to be admitted to practice without taking the bar examination, must show to the satisfaction of the Board of Commissioners that he or she:
 - ~~(1) Has taken and passed the bar examination in at least one of the following states: Oregon, Washington, Utah or Wyoming; is an active member of any of those state bars as a result of the passage of those examinations, and has actively, substantially and continuously practiced law as his or her principal occupation in any of those states for no less than three of the last five years immediately preceding his or her application for admission, subject to the other requirements set forth below;~~
 - ~~(2) is a person of good moral character;~~
 - ~~(3) is a graduate of an approved law school as defined in Rule 200(a); and~~
- (b) ~~A reciprocal applicant seeking admission to practice law under this rule must:~~
 - ~~(1) present satisfactory proof of his or her passage of the bar examination in at least one of the following states: Oregon, Washington, Utah or Wyoming, satisfactory proof of his or her admission to the practice of law in at least one of the following states: Oregon, Washington, Utah or Wyoming, satisfactory proof of his or her active membership in the Oregon State Bar, Washington State Bar Association, Utah State Bar and/or Wyoming State Bar, and satisfactory proof of his or her active, substantial and continuous practice of law as his or her principal occupation in any of these states for no less than three of the last five years immediately preceding his or her application for admission under this rule; and~~
 - ~~(A) possess the good moral character and fitness required of all other applicants for admission to practice law in Idaho; and~~
 - ~~(B) pay such application fees and costs as may be established under these rules.~~
 - (1) Has passed a written examination, been admitted to practice and is currently actively licensed as an attorney by the highest court in any state, United States territory or District of Columbia that grants admission without bar examination under provisions

substantially similar to this rule to attorneys licensed in Idaho on the basis of practice in Idaho;

- (2) has actively, substantially, and continuously practiced law as defined in Rule 200(j) as his or her principal occupation for no less than three of the last five years immediately preceding his or her application for admission, in Idaho or another jurisdiction that grants admission without bar examination under provisions substantially similar to this rule to attorneys licensed in Idaho on the basis of practice in Idaho;
- (3) possesses the good moral character and fitness required of all other applicants for admission to practice law in Idaho;
- (4) has received a juris doctorate or bachelor of laws degree, or an equivalent basic law degree from an approved law school as defined in Rule 200(a); and
- (5) has paid such application fees and costs as may be established under these rules.

~~(e)~~(b) An attorney licensed as house counsel under Idaho Bar Commission Rule 220 must satisfy the qualifications in Rule 204A(a) ~~and (b)~~, except that time spent practicing in Idaho as his or her principal occupation while licensed as house counsel under IBCR 220 shall qualify under this Rule's requirement to demonstrate active, substantial and continuous practice of law.

~~(d)~~(c) **Form and Content of Application.** A reciprocal applicant shall file an application for admission to the practice of law on a form prescribed by the Board, which shall include an authorization and release to enable the Board to obtain information concerning such applicant. The applicant must give a full and direct response to the requirements of the application form in the manner and time prescribed by these Rules and the application form.

(1) **Time for Filing Application.** A reciprocal application may be filed at any time.

(2) **Fees.** No reciprocal application shall be accepted by the Executive Director unless such application is accompanied by the full amount of fees required by these Rules.

(A) **Fee.** Every reciprocal applicant, at the time of filing his or her application, shall pay to the Idaho State Bar a fee of ~~six hundred ninety dollars (\$690.00)~~ eight hundred dollars (\$800.00).

(B) **Additional Investigation Fees.** In the event the Board determines that an investigation of a reciprocal applicant, beyond the usual investigation provided for in Rule 206, is required, the Board may require the payment of an additional investigation fee, including but not limited to, the cost of any record or document required by the Board in the conduct of an investigation or inquiry concerning the applicant. The Board shall not proceed with further investigation until the additional investigation fee is paid and the investigation of his or her character and fitness is completed.

(i) **Notice.** The Board, upon determining that an additional investigation fee will be required, shall notify the applicant of such requirement. The notice required by this subsection shall be in writing and served upon applicant personally or by certified mail, return receipt, at his or her last known address.

(C) **Refunds.** No refund, in whole or in part, shall be made of a reciprocal application fee or additional investigation fee.

(i) In the event an additional investigation fee is required to complete the investigation of an applicant's character and fitness, any unused portion of the

additional investigation fee shall be refunded to the applicant at such time as a final determination concerning his or her application is made.

(3) **Penalty for Failure to Disclose Information.** No one shall be licensed to practice law in this state who fails to disclose fully to the Board:

(A) The facts relating to any disciplinary proceeding or charges as to his or her professional conduct, whether relating to a letter of grievance or formal charges; whether the same have been terminated or not, in this or any other state, or any federal court or other jurisdiction; and whether requested to do so or not by the Board; or

(B) All facts relating to any civil or criminal proceedings in which the applicant is a party, whether such proceedings have terminated or not, in this or any other state, or any federal court or other jurisdiction; and whether requested to do so or not by the Board.

(C) All facts relating to any illness or disability, including substance abuse and mental health, which affects the applicant's fitness to practice law.

(4) **Release of Confidential Information.** By making application for admission to the practice of law in this state, an applicant waives his or her right to confidentiality of medical/psychological communications, records, evaluations and any other pertinent medical/psychological information touching on the applicant's fitness to practice law as determined by the Board.

(A) **Refusal to Give Written Release.** A refusal by an applicant to furnish a written release for such medical/psychological information or his or her objection to disclosure of such information to the Board shall be grounds for dismissal of the application.

(B) **Validity.** All forms of Authorization and Release executed by an applicant shall terminate:

(i) upon admission to the Bar;

(ii) upon receipt of notice of withdrawal of the application; or

(iii) upon receipt of notice of termination of the application. An application is not terminated until any appeal or right to appeal is terminated.

~~(e)~~(d) **Time and Manner for Admission.** Following successful completion of the reciprocal admission process set forth above the Clerk of the Supreme Court shall give written notice to the applicant requiring him or her to appear in person before the Court or the Clerk within six (6) months from the date of mailing of such notice to take the oath of admission provided in Rule 214. If the applicant does not appear or present himself or herself for admission within the six (6)-month period provided by this Rule, he or she shall not be admitted unless he or she shows to the satisfaction of the Court that at all times since issuance of the certificate of eligibility for admission he or she has been, and still is, a person of good moral character.

~~(f)~~(e) **Continuing Legal Education.** All applicants admitted to practice law pursuant to this rule shall complete and certify no later than six months following the applicant's admission to practice law under this rule that he or she has attended at least fifteen hours of continuing legal education on Idaho practice, procedure and ethics requirements, in courses administered by and/or approved by the Idaho State Bar. All applicants admitted to practice under this rule shall complete the Idaho practice and procedure and ethics sections of the Practical Skills Seminar approved for that purpose by the Idaho State Bar. Credits for self-study programs applicable to the mandatory continuing legal education requirements under this rule shall be limited to one half of the 15 hours required.

- ~~(g) **Rescission of Reciprocity / Additional States.** Additional states may be added to or states may be deleted from this section by approval of the Supreme Court of a Board of Commissioner petition to the Supreme Court for amendment of these Rules.~~

RULE 302. Right to Practice After Admission; Maintenance of Membership. Following admission as a member of the Idaho State Bar, an attorney may maintain membership in the Bar as follows:

- (a) **Active Member.** The right to engage in the active practice of law in the State of Idaho, after admission, shall be dependent upon:

- (1) Payment of the annual license fee required by Rule 303; and

- (6) Completion of the practical skills seminar, as set forth by Rule 402(f); and
(7) **Disclosure of Professional Liability Insurance.** Each lawyer admitted to the active practice of law shall certify to the Idaho State Bar on or before February 1 of each year (1) whether the lawyer represents private clients; (2) if the lawyer represents private clients, whether the lawyer is currently covered by professional liability insurance; and (3) whether the lawyer intends to maintain insurance during the next twelve months. Each lawyer admitted to the active practice of law in this jurisdiction who reports being covered by professional liability insurance shall identify the primary carrier and shall notify the Idaho State Bar in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason, unless the policy is renewed or replaced without substantial interruption.

RULE 304. Failure to Comply with Licensing Requirements

- (a) No license to practice law for the next calendar year shall be issued to any member who timely fails to:

- (1) Pay the annual license or membership fee including any applicable fees for late payment pursuant to IBCR 303(c); or
(2) File a proper certification of maintenance of trust account; or
(3) File a proper certification of compliance with continuing legal education requirements; or
(4) File a proper certification pursuant to IBCR 302(a)(7) Disclosure of Professional Liability Insurance.

- (b) **Notice.** The Executive Director shall give, or cause to be given, written notice to each lawyer who fails to pay his or her license fee, fails to file a proper certification of trust account, ~~or~~ fails to file a proper certification of compliance with continuing legal education requirements, or fails to file a proper certification of compliance with IBCR 302(a)(7) Disclosure of Professional Liability Insurance. Such notice shall advise the lawyer:

- (1) That he or she has until March 1 to complete the requirements of licensure; and
(2) That if he or she fails to complete the requirements by March 1, he or she shall be transferred to inactive status and the Supreme Court will be notified to remove his or her name from the list of lawyers entitled to engage in the practice of law in this state.

- (c) **Reinstatement.** Any lawyer who seeks to return to active status following transfer to inactive status must:

- (1) **Failure to Pay License Fee**
 - (A) Pay to the Executive Director all annual license fees not previously paid at the rate of an affiliate member; and
 - (B) Pay to the Executive Director the appropriate late fee on all amounts past due.
- (2) **Failure to File Trust Account Certification**
 - (A) File with the Executive Director a proper certification of trust account as required by the Code of Professional Responsibility.
- (3) **Failure to File Certificate of Compliance with Continuing Legal Education Requirements**
 - (A) File with the Executive Director a proper certificate of compliance with the continuing legal education requirements as provided in Rule 402.
- (4) Failure to File a Proper Certification of Compliance with IBCR 302(a)(7) Disclosure of Professional Liability Insurance**
 - (A) File with the Executive Director a proper certification of compliance with IBCR 302(a)(7) Disclosure of Professional Liability Insurance.
- ~~(4)~~(5) If the attorney has been inactive or affiliate for a continuous period of twelve (12) months, he or she shall be required to provide proof in such form as the Board may require that he or she:
 - (A) Has not been subject to any formal or informal disciplinary proceeding;
 - (B) Has not been disbarred or suspended from the practice of law in any state in which he or she has at any time been admitted to practice; and
 - (C) Has not been convicted of a felony or a crime involving moral turpitude.
- ~~(5)~~(6) If the attorney has been inactive or affiliate for a continuous three-year period, the Board shall require proof that he or she remains competent to practice law in the state of Idaho before granting reinstatement. Proof of competence to practice law may include applying for and taking the Idaho bar examination.
- ~~(6)~~(7) The Board may withhold a transfer to active status until it receives a satisfactory showing on any matter raised under subsections ~~(4)~~(5) and ~~(5)~~(6) above.

RULE 402. Education Requirement - Report. Except as provided in Rule 410 for lawyers licensed and practicing principally in Oregon, Utah or Washington, all active lawyers shall complete and report continuing legal education credits as provided in the following subsections.

- (f) **Practical Skills Seminar.** Within twelve months of admission to the Idaho State Bar, each lawyer is required to complete a practical skills seminar approved for that purpose by the Idaho State Bar.
 - (1) **Deferral.** A lawyer may seek to extend the time period set forth for completion of the practical skills seminar by filing a written petition with the Executive Director within the one-year period, seeking a deferral. The Executive Director may grant the deferral upon a showing that completion of the practical skills seminar would cause a substantial hardship on the petitioner.
 - (2) **Noncompliance.** Failure to comply with the requirements of these subsections shall subject a lawyer to the provisions of Rule 406.

- (3) **Exemption.** Lawyers who have been continuously admitted to practice before the highest court of another state or the District of Columbia for five years at the time of their admission in Idaho shall be exempt from the requirements of this subsection.
- (A) Lawyers admitted pursuant to IBCR 204A and who have been continuously admitted to practice before the highest court of another state or the District of Columbia for five years at the time of their admission in Idaho are required to complete the continuing legal education requirements set out in IBCR 204A~~(f)~~(e).
- (4) **Effective Date.** Only lawyers admitted after the effective date of this rule shall be required to comply with the provisions of this subsection.

RULE 410. Idaho Lawyers Licensed in Other States. Pursuant to interstate compact, a lawyer licensed in certain jurisdictions that have agreed to reciprocal rules for Idaho lawyers may comply with MCLE requirements as follows.

- (a) An active member whose principal office for the practice of law is not in the state of Idaho may comply with the reporting rules set forth above by filing a compliance report on a prescribed form in which the member certifies that the member is subject to MCLE requirements in Oregon, Utah or Washington, and that the member has complied with the MCLE requirement of that jurisdiction during the member's reporting period in that state.
- (b) **Exceptions.** Subsection (a) notwithstanding, all lawyers shall be required to complete the Practical Skills Seminar, as provided by Rule 402(f). All lawyers claiming specialty certification shall comply with Rule 402(a)(3), provided that such lawyers may conform their reporting period to that of their principal state. All lawyers admitted to practice law pursuant to Rule 204A shall comply with continuing legal education requirements in subsection ~~(f)~~(e) of that rule.

Idaho Rules of Professional Conduct

RULE 1.15: SAFEKEEPING PROPERTY

- (f) Unless an election not to do so is submitted in accordance with the procedure set forth in subsection ~~(i)~~(j) of this Rule, a lawyer or law firm with which the lawyer is associated who receives client funds shall maintain a pooled interest-bearing depository account for disposition of client funds that are nominal in amount or expected to be held for a short period of time. Such an account shall comply with the following provisions:
- (1) The account shall include all clients' funds which are nominal in amount or are expected to be held for a short period of time.
 - (2) No interest from such an account shall be made available to a lawyer or law firm.
 - (3) The determination of whether clients' funds are nominal in amount or to be held for a short period of time rests in the sound judgment of each lawyer or law firm.
 - (4) Notification to clients whose funds are nominal in amount or to be held for a short period of time is not required.

(j) A lawyer or law firm that elects to decline to maintain accounts described in subsection (e) of this Rule shall submit a Notice of Declination in writing to the Executive Director of the Idaho State Bar or designee by February 1 of the year to which the Notice of Declination will apply.

(1) Notwithstanding the foregoing, any lawyer or law firm may petition the Court at any time and for good cause shown may be granted leave to file a Notice of Declination at a time other than those specified above. An election to decline participation may be revoked at any time by filing a request for enrollment in the program.

(2) A lawyer or law firm that does not file with the Executive Director of the Idaho State Bar a Notice of Declination in accordance with the provisions of this Rule shall be required to maintain account in accordance with subsection ~~(e)~~(f) of this Rule.

IT IS FURTHER ORDERED that this Order and the amendments to IBCR 204A, 302, and 304 are effective October 1, 2006 and the amendments to IBCR 402, 410, and IRPC 1.15 are effective immediately.

IT IS FURTHER ORDERED, that the above designation of the striking of words from the Rules by lining through them, and the designation of the addition of new portions of the Rules by underlining such new portion is for the purposes of information only as amended, and NO OTHER AMENDMENTS ARE INTENDED. The lining through and underlining shall not be considered a part of the permanent Rules.

DATED this __5th__ day of __June_____, 2006.

By Order of the Supreme Court

_____/s/_____
Gerald F. Schroeder, Chief Justice

ATTEST: _____/s/_____
Clerk